

Chapter 3

CONTRACTS/GRANTS MANAGEMENT

Introduction

One of the quickest and perhaps most effective ways to inject more funding into the remedial action pipeline is through deobligations and the effective management of contracts, grants, and IAGs. Timely billing and closeout, and the quick re-programming of deobligated funds, can help meet both near- and long-term needs to address funding shortfalls for long-term cleanups.

The recommendations in this chapter suggest ways to more efficiently use Superfund dollars through effective contract, grant, and IAG management processes. These recommendations fall into two subcategories: (1) Contracts & Grants/IAGs; and (2) Training (in these management processes).

3.1 CONTRACTS & GRANTS/IAGs

Background:

The recommendations in this section address issues with the management—especially billing and closeout—of contracts, grants, and IAGs.

Over the last several years, OSWER has led an Agency-wide effort to deobligate excess funds on contracts or funds on expired contracts. This effort has deobligated a significant amount of money—\$219 million in FY 2002 and \$109 million in FY 2003. OSWER recently began to focus on IAGs, especially those with the Corps of Engineers (the federal agency EPA partners with most). The Agency's approach to deobligations should focus both on near-term, one-time opportunities, and on longer-term procedural changes that would achieve a consistently higher rate of utilization of obligated funds, so that fewer and smaller deobligations are needed.

The Study noted that the policy memoranda and guidance regarding the Brownfields Program are another potential area of change. Deobligation policy documents for Brownfields grants were written prior to the enactment of the Small Business Liability Relief and Brownfields Revitalization Act of 2002 (Brownfields Act). These documents directed the Regions to review and take action on older grants where funds had not been expended. In December 2003, upon reviewing all the funds obligated for Brownfields activity since 1993, the Study team found that a substantial number of grants with obligated funds still had no expenditures. While the Regions have begun the process of reviewing these grants, resulting in deobligations and better utilization of the grant funds, the Regions should carefully review all remaining grants to ensure the work will occur.

The timely and efficient billing and closeout of grants, IAGs, and contracts is critical to effective overall Program management. When looking at this area, the Study team found that the efficiency of the billing and closeout process differs for each funding mechanism. Because contractors have a built-in business incentive to provide EPA with clear and prompt invoices, this process tends to work the smoothest. Contracts management also benefits from a fully automated billing and payment system, which is not now available for grants and IAGs. However, in recent years, grants management has improved due to a series of measures initiated by the Office of Administration and Resources Management (OARM) and implemented by senior resource officials. These measures have included developing a national plan for managing grants, updating policies, and improving training. However, there is still one major hindrance to grant closeouts in the Superfund Program: several Regions are having difficulty getting some of their States to submit final financial status reports. This may be due to a variety of factors, including budget cuts in the States and lack of incentives.

The inability to quickly close out contracts and IAGs is an important issue in the Program. Closeouts for IAGs are delayed primarily because of other federal agencies' inability to provide a final bill or technical report. Contracts are slow to be closed out because of late subcontractor billings or disputes, various contractors' claims and protests, adjustments to overhead rates, final audits, etc. Consequently, the Regions do not deobligate funding on contracts or are unable to do so for IAGs, sometimes for many years beyond construction completion. Regions are reluctant to deobligate any funds prior to closeout of contracts or IAGs because they are concerned that any trailing costs or adjustments to overhead rates would come out of their current year funding. These concerns discourage any attempt to deobligate funds prior to closeout, which needlessly ties up funds that could be used on current remedial or removal actions at NPL sites.

The Study Team received the most input in the IAG area. It appears that improvements are needed by both EPA and EPA's partner agencies. The Study found that EPA needs to manage IAGs with other federal agencies better, particularly billing and oversight. There is a perception in the Agency that some Regions are using IAGs as a default vehicle instead of deliberately choosing an IAG because of the unique capabilities of the other federal agency or specific cost issues. Further, the overhead rates charged by the U.S. Corps of Engineers and by other federal agencies appear to vary widely, and there is confusion among some Regions regarding procedures for invoicing from the Corps. Frustration with the IAG billing process for all federal agencies is widespread, both in terms of lump-sum invoices submitted and long delays in resolving outstanding billing issues.

Regional managers and staff also expressed a need for the proper tools and reports to be able to manage IAGs better. The Agency has some systems already in place, and others that may only need to be expanded to address this and other issues regarding better IAG management. One system is the Integrated Grants Management System (IGMS). Another possibility is ORBIT, a new system currently being launched by OCFO. Some Regions felt strongly that IGMS would assist them in monitoring and closing out IAGs.

While many of the issues raised were focused on IAGs with the Corps, because the Corps has the overwhelming number of IAGs with the Superfund program, the Study's recommendations apply to all IAGs.

One specific grant issue that was raised is the number of newer grants going to States that still have large sums of money remaining on existing grants for the same type of work. Some Regions have begun to address this problem by not issuing new grants for the same activities until the money on older grants is expended and the grants are closed out.

Recommendations and Actions:

Recommendations 70 and 71: Revise Brownfields Deobligation Policies and Evaluate Grants Status. OSWER should review and potentially revise the Brownfields deobligation policy documents in light of statutory changes and the progress made in reviewing older grants (Rec. 70). In addition, OSWER and the Regions should evaluate the unexpended dollars on older Brownfields grants to determine if those funds can be used for the original award purpose (Rec. 71).

Action: OBCR prepared, signed, and distributed a policy memo recommending that EPA Regional Brownfields and Grant staff review the performance of recipients of 1999 and 2000 Brownfields Cleanup Revolving Loan Fund (BCRLF) pilot grants. It included a list of the BCRLF recipients awarded grants in 1997, 1999, and 2000, to ensure the recipients' performance is assessed and transition or deobligation is encouraged. In addition, OBCR will work with Regions to review outstanding assessment grants to determine whether they should be deobligated and funds redirected for other Brownfields purposes, where appropriate, or returned to Regions or Headquarters to supplement Superfund. OBCR will review and revise the Brownfields deobligation policy to more explicitly address statutory changes and programmatic experiences and goals, as allowed. *(OBCR)*

Key - Recommendation 72: Establish \$5 Million Pool. For Programmatic contracts and IAGs, OSWER should immediately establish a pool of \$5 million to cover indirect cost rate adjustments and late bills for Headquarters and Regional response contracts and additional bills for IAGs. This pool will give the Regions and Headquarters more incentive to deobligate funds after a contract or IAG expires. Once the pool is formally established, OARM and the Regions could begin deobligating funds from older expired contracts. In addition, formal establishment of this pool may assist in convincing other federal agencies to agree to close out or reduce the dollars available on expired IAGs.

Action: The Agency already maintains a fiduciary reserve to cover upward adjustments and overruns (antecedent liabilities) from prior years in each appropriation. The amount of the reserve will be increased to \$10 million. This reserve is available to offices that use Superfund money, with the exception of ORD. Guidance will be developed and then issued. *(OARM/Office of Acquisition Management [OAM])*

Key - Recommendation 73: Resolve Federal Agency Billing Issues. OCFO and OARM should work together to develop standard operating procedures for resolving billing issues with other federal agencies.

Action: EPA cannot control other agencies' methods or frequency of billing, nor can it alter the Interagency Payment and Collection (IPAC) billing system that is used for all federal billing transactions. EPA can only request that the Agency Project Officers (POs) communicate with the other federal agencies to determine the status of the project and the projected use of funds to determine if some money could be deobligated while waiting for the final invoice. EPA is addressing this through the Grants Administrative Division (GAD) project officer training courses. The Cincinnati Finance Center has been participating in a GAD work group that is trying to identify and put in place more accurate means of closing out interagency agreements. The work group is developing recommendations to speed up the closeout process and deobligate unneeded funds from open agreements. *(OCFO)*

Key - Recommendation 75: Review IAG Closeout Policies. OARM and OCFO, in consultation with the Grants Management Council (GMC), should review the current IAG closeout policy to determine if any revisions to the guidance are needed.

Action: Current IAG closeout policies were reviewed and a work group was established; recommendations were presented to all Regional Grants Management Officers (GMOs) in May 2004, and to the Grants Customer Relations Council (GCRC) for comments in July 2004. The Policy, Information and Training Branch (PITB) will revise current closeout policies and guidance, and present these to the GMC at its first meeting in FY 2005. *(OARM)*

Key - Recommendation 76: Resolve Grant Closeout Issues. Common grant closeout issues should be discussed at the GMC, and the Agency should establish consistent approaches to these problems.

Action: GAD will discuss with all Regional GMOs and the GCRC some common problems experienced in closing out grants. GAD will present its recommendations to the GMC at its first meeting in FY 2005. In addition, the recommendations will be presented to the GMOs in 2005. *(OARM)*

Key - Recommendation 77: Resolve Federal Agency IAG Closeout Issues. Headquarters and the Regions should identify which other federal agencies they are having difficulty with managing and closing out IAGs. They should communicate the issues and problems to OARM and OCFO, who will contact their counterparts at the other federal agencies to resolve them.

Action: GAD will coordinate with the Regional offices to identify which federal agencies are causing closeout problems for EPA. GAD and OFCO visited the U.S. Department of Health and Human Services (HHS) to discuss that Department's processing, invoicing, and closing of IAGs. Because of the complex way HHS is

structured, GAD is currently looking into selecting another federal agency to discuss closeout procedures. *(OARM)*

Recommendation 78: Establish Closeout PMs. For IAGs, grants, and contracts, OARM should establish appropriate closeout performance measures and send quarterly reports to Senior Resource Officials (SRO) with outstanding closeouts, including the amount of outstanding dollars.

Action: For IAGs and grants, closeout performance measures have been established and regular reports are being obtained. No further action will be required. For contracts, Superfund's RCRA Regional Procurement Operation Division (SRRPOD) plans to more strictly enforce existing Federal Acquisition Regulations (FAR) procedures and guidelines, and to employ quick closeout whenever possible. *(OARM)*

Recommendation 81: Consolidating Contract Functions. OARM and the Assistant Regional Administrators (ARAs) should conduct an analysis to determine if cost efficiencies and programmatic benefits can be obtained by consolidating contract functions.

Action: The ARAs, OARM, and OSWER may develop an approach to systematically conduct analysis of the efficiencies and benefits of consolidating contract functions. Considerations should be given to the factors considered in the consolidation of Region 10 and Regions 7 functions; some of the factors considered in this consolidation included examining the workload per employee in the Contract unit and comparing this to the cost of staffing the unit (e.g., employees; office space; special continuing training and education for contacting staff; special automation programs; etc.). It was determined that that savings could potentially be achieved if contract services were instead provided by another organization with better economies of scale and infrastructure. *(OARM)*

Key - Recommendation 83: Monitor Contract Funding. OSWER should work closely with the Regions to monitor contracts to ensure that the Regions have not funded their contracts into the future to an extent where they cannot appropriately use the funds during the contract period.

Action: OARM and OSWER will monitor a number of established reports in the existing Monthly Executive Summary Report. They will also utilize ad hoc reports on what work is being done to track trends in spending as well as work that has crossed over from one Region to another. In a case where a contract has been funded to an extent where the funds cannot appropriately be utilized during the contract period, OARM and OSWER will jointly issue a letter to each Region's SRO and Regional Contracting Officer (RCO) requesting correction. *(OARM/OAM)*

Key - Recommendation 84: Establish Policies for the Duration of Grants and IAGs. In the near term, the OSWER Senior Resource Official should establish policies for the duration of grants and IAGs. For the long term, OARM should work with the Agency to establish Agency policies for the durations of all types of grants and IAGs. (For the older grant and IAGs that have had their periods of performance extended on multiple occasions, the Senior Resource

Official should monitor those agreements carefully and work with OARM to close them out as soon as possible). For new grants and IAGs, these assistance agreements should be closely monitored to ensure that they do not exceed the new durations, whose length may vary depending on type of activity.

Action: GAD has policies and regulations for the duration of research and training grants. A work group that includes Headquarters and Regional representatives will be established to develop policies for the duration of Special Purpose grants. Recommendations will be presented to GMOs and GCRC for comments. Policies for the duration of IAGs will be reviewed and revised accordingly, and PITB will revise current closeout policies for IAGs. *(OARM)*

Key - Recommendation 85: Establish Grant-Monitoring Criteria. OARM and the Regions should analyze the different types of grants to determine their current funding levels and draw-down histories and establish criteria that will be used to evaluate grants that need increased monitoring.

Action: No additional action will be taken against this recommendation as this is an ongoing effort. GAD currently has a Post Award Monitoring Plan used throughout the Regions and Program offices that addresses the recommendation issues. *(OARM/GAD)*

Key - Recommendation 87: Improve Grant Monitoring. OARM should continue to build upon the improvements already undertaken to better monitor grants in the areas of billing, deliverables, and milestones, and should ensure that the proper monitoring tools are available to managers and staff. As part of training for new project officers and recertification training, OARM should continue to ensure that all staff members are fully trained on using available tools, such as the Financial Data Warehouse and OARM databases.

Action: GAD's Long Term Training Plan proposes to train the Agency's workforce on the core competencies required for effective grants management, including using the proper monitoring tools available. GAD's Long Term Training Plan is final and was issued in September 2004. *(OARM/GAD)*

Recommendation 88: Provide IGMS Module Updates. OARM should provide status updates to project officers and managers on the future deployment of the IAG module of IGMS.

Action: Deployment of IAGs into the Integrated Grants Management System remains in GAD's 2005 budget. Higher priorities continue to take precedent over it. Updates will be provided at the monthly GMO conference calls and at the GCRC meetings. *(OARM/GAD)*

Recommendation 92: Analyze Federal Agency Indirect Cost Rates. OSWER and OARM should analyze how much EPA is paying other federal agencies in indirect, Project Planning and Management Division (PPMD), and other costs.

Action: No additional action is required as work is ongoing that meets the goal of this recommendation. Through discussions with the Army Corps of Engineer's (COE) PO in OSWER, EPA determined that significant analysis has been, and continues to be done, on this IAG with respect to direct and indirect costs. The PO has a schedule which details the indirect rates, the manner in which the COE Program Manager charges his/her time (direct versus indirect), and the role of PPMD in each of the Districts. Starting in FY 2005, these costs will be recovered through a separate indirect rate enabling EPA to include these amounts in their cost recovery cases. *(OCFO)*

Recommendation 93: Negotiate National IAG Overhead Rate. EPA Headquarters should negotiate a national overhead rate for all IAGs depending on the results of the (above) analysis. In addition to eliminating the tremendous variability in overhead rates charged to the Regions, this single, national rate should be negotiated with the intent of minimizing costs to EPA.

Action: No further action is required for this recommendation. Based on further analysis of the 120-Day Study recommendations, the focus of this recommendation appears to be on EPA Funds-out IAGs (i.e., the IAGs EPA has with other Agencies where we are paying them to do work for us) with the COE. Additional research on this recommendation indicates that the COE has substantiated rates that it applies to its IAGs with other Federal entities. EPA POs may request and review the supporting documentation, and may request negotiations with the COE, however, there is no requirement for the COE to enter into negotiations with EPA. *(OCFO)*

3.2 TRAINING

Background:

A key to the effective management of contracts, grants, and IAGs is the proper training of staff managing these funding mechanisms. While OARM has undertaken measures to improve training in grants management, the Study noted that some of the issues involving IAGs may result from a lack of training, specifically on IAGs. Issues that may need to be included are emphasizing deliverables and milestones as part of an IAG and defining appropriate criteria for when to extend the project period for an IAG.

The Agency continues to explore ways to obtain cost savings and efficiencies through different contract types. OARM has been exploring alternative contract types for several years, and now conducts performance-based contract training on a case-by-case basis when an office prepares a new contract procurement. Because many of the alternative types of contracts are new to contracting officers and project officers, increased training and oversight will be necessary. It is also important for senior management to gain an understanding of alternative types of contracts to ensure that they are considered when contracting decisions are made.

An issue that was discussed during the Regional interviews is the importance of the experience of the RPM overseeing the RAC work assignment. Ensuring that RPMs can successfully

manage the complexities of the RAC requires appropriate training and oversight of RPMs. OSCs receive more rigorous contract training than RPMs because the nature of their work requires them to make on-the-spot decisions that can affect a contract. It may be useful for OSWER to evaluate whether portions of OSC contract training should be incorporated into RPM contract training. Another option is to conduct peer reviews of work assignments and IGCEs developed by less-experienced RPMs as needed. Even with appropriate training and oversight, an RPM needs to spend time in the field monitoring the contractor at the site. Without a field presence, the cost of the work being conducted at a site can easily increase.

Recommendations and Actions:

Recommendation 74: Circulate Direct Cite Payment Process. If it has not already done so, OSWER should circulate the Direct Cite payment process document to the Regions and ensure that staff members are properly educated on the process. It may be prudent for OSWER and the Regions to review the process to determine if changes need to be made.

Action: The Direct Cite Payment Process is documented in an existing fact sheet that is currently available on the Superfund Web site. It is also available on the joint EPA/U.S. Corps of Engineers Web site. Joint EPA/Corps training procedures for issuing and managing interagency agreements now includes greater emphasis on, and discussion of, the Direct Cite Payment Process. (*OSRTI*)

Recommendations 79 and 80: Encourage Use of Alternative Contracts and Conduct Training. OARM, OSWER, and the Regions should work together to encourage the use of alternative contract types. OARM and Regional contracting officers should offer regular training for contract personnel, RPMs, OSCs, and project officers in alternative contract mechanisms.

Action: OARM will continue partnering with OSWER and the Regions in exploring the use of alternative contract types, particularly response action contracts, where EPA stands to derive the greatest amount of savings, and in providing training in performance-based service contracting (PBSC).

Training in PBSC has been provided at the last two annual Project Officer-Contracting Officer (PO/CO) training conferences. Training in PBSC has been provided at the last OSC Readiness Training as well as at the last four OSC warrant training classes. OAM SRRPOD has provided on-site acquisition training in almost all the Regions at least once in the past 18 months to help the warranted OSCs meet their 40 hours of mandatory continuing acquisition training. These on-site acquisition training sessions have included sessions on PBSC. A national work group has developed PBSC tasking templates for common reoccurring tasks under ERRS and START and have been posted to the Internet for all POs and OSCs to utilize.

Nationally consistent Blank Purchase Agreements (BPAs) have been issued for a significant amount of emergency response and counterterrorism equipment. This has resulted in a consistent interchangeable inventory throughout the Removal Program. This

has increased efficiency and simplified training and familiarization with equipment usage. *(OARM)*

Recommendation 82: Provide Increased Contract Management Training. OSWER, with support from OARM, should provide increased contract management training. Increased training or peer reviews could focus on development of work assignments and IGCs, reviewing invoices, and overseeing contractors.

Action: Throughout the year, OAM conducts multiple sessions of several types of contract training nationwide. The schedule of sessions is published in the Intranet at <http://intranet.epa.gov/oamintra/>. Relative to remedial actions, the Superfund Program may enhance the capabilities of RPMs by promoting and encouraging their attendance at OAM's optional three-day Contracting Officer Refresher (COR) Training Course, which focuses on the entire process of tasking a contractor from the initial procurement package to closeout. Further augmentation of this training course by adding related RAC-specific issues will enhance course usefulness to RPMs.

OAM intends to continue with conducting formal training in routine contract management and special interest topics, Program outreach, and information exchanges with Program offices throughout the year. OAM also plans to continue with the conduct of the acquisition conferences, historically held every two years. *(OARM/OAM)*

Recommendation 86: Improve IAG Training Course. OARM should continue its commitment to create an improved overall training course for project officers and IAG specialists focusing solely on IAGs. Topics that may need to be included are emphasizing deliverables and milestones as part of an IAG, outlining criteria for when to extend the project period, managing billing issues, and emphasizing proactive monitoring of IAGs.

Action: Activities include: separating the IAG Project Officers Training from the already-established three-day Grants Project Officer Training course; deploying online the IAG Refresher Project Officer course; and maintaining and updating the online course to include any new or additional materials. *(OARM)*